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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bosch et al.

Title: STERILE FILTERED NANOPARTICULATE FORMULATIONS OF
BUDESONIDE AND BECLOMETHASONE HAVING TYLOXAPOL AS A
SURFACE STABILIZER

Appl. No.: 10/035,324

Filing Date: 01/04/2002

Examiner: Edward J. Webman

Art Unit: 1617

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed July 1, 2004, Applicant hereby provisionally elects Group I, Claims 1-14, for examination, with traverse.

The traversal is on the ground that there is no undue burden on the Examiner to search and examine the entire application as filed. Furthermore, searching claims 1-34 insofar as they read on the elected subject matter would appear to involve searching related classes and subclasses.

In any event, pursuant to the Official Gazette notice of March 26, 1996 which establishes guidelines for treatment of product and process claims in light of *In re Ochiai*, method of use claims which are of the same scope as allowed product claims should be included herein for consideration on the merits. Therefore, it is requested that at least claims 31-34 be included in Group I insofar as they read on the elected subject matter.

With respect to the elected species, Applicants elect benzalkonium chloride as the secondary surface stabilizer (as recited in claim 8) and elect crystalline as the form of the particles (as recited in claim 11). It is understood that should the Examiner find the above species allowable, then the search and examination of the entire application will proceed according to the procedure set forth in MPEP § 803.02.

Applicants also reserve the right to file a divisional application covering the subject matter of the non-elected claims.

Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

Date July 29, 2004

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